

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILMA SHAPIRO
CHARLES SHAPIRO

Claim No CU -1420

Claim No.CU-1421

Decision No.CU -6806

Under the International Claims Settlement
Act of 1949. as amended

Counsel for claimants:

Shapiro, Fried, Weil & Scheer
By Herbert S. Shapiro, Esq.

Appeal and objections from a Proposed Decision entered on September 1, 1971.
Oral Hearing requested.

Oral Hearing held on October 13, 1971.

FINAL DECISION

By Proposed Decision issued September 1, 1971 the Commission certified losses to claimants WILMA SHAPIRO and CHARLES SHAPIRO in the respective amounts of \$1,170,050.38 and \$1,161,150.09. Parts of the claim, common to both claimants, based on shareholders' interests in seven Cuban entities and an interest in a factory were denied for failure to establish the value of the properties at the time of loss. A part of the claim of CHARLES SHAPIRO, based on insurance policies, was denied for failure to establish that the property was taken by the Government of Cuba.

At an oral hearing held October 13, 1971 argument was made by counsel and additional evidence was submitted reflecting on the value of the seven aforementioned Cuban corporations.

Based on the entire record the Commission now finds that all said seven Cuban corporations and the factory were taken by the Government of Cuba on October 13, 1960 and that the extent of each claimant's interest and the value thereof was as follows:

<u>Item</u>	<u>Ownership</u>	<u>Value</u>
1. Parcelacion Wilcha, S.A.	37.5%	\$ 95,625.00
2. Mirabel, S.A.	18.75%	89,157.97
3. Urbanizadora Las Palmas, S.A.	18.75%	63,750.00
4. Las Culebrines, S.A.	18.75%	31,875.00
5. Urbanizadora Ariguanevo, S.A.	18.75%	12,750.00
6. Inmobiliaria La Lisa, S.A.	37.5%	9,562.50
7. Taller de Confecciones	37.5%	3,187.50
8. Factory	50%	<u>75,000.00</u>
		\$380,907.97

The Commission further finds that Mirabel, S.A. (item 2) was indebted to each claimant for unpaid dividends in the amount of \$4,687.50 based on an 18.75% interest in said firm and that each claimant sustained a further loss in this amount.

Claimant CHARLES SHAPIRO has failed to submit any probative evidence, within the time allotted to counsel at the oral hearing, in reference to the part of the claim based on the insurance policies. Accordingly, its denial is affirmed.

Claimants' losses are restated as follows:

<u>Item</u>	<u>WILMA SHAPIRO</u>	<u>CHARLES SHAPIRO</u>	<u>Date of Loss</u>
La Coronela, Havana (realty and personalty)	\$ 55,646.90	\$ 55,646.90	October 14, 1960
Calle 40A, Miramar	23,750.00	23,750.00	October 14, 1960
Auto	1,500.00	1,800.00	October 14, 1960
Apartment Buildings, Havana	50,000.00	50,000.00	October 14, 1960
Cuban Telephone Company	9,200.29	--	August 6, 1960
Tiendas	919,641.36	919,641.36	October 13, 1960
Ellis	110,311.83	110,311.83	October 13, 1960
Additional stock interests	305,907.97	305,907.97	October 13, 1960
Factory	75,000.00	75,000.00	October 13, 1960
Dividends	<u>4,687.50</u>	<u>4,687.50</u>	October 13, 1960
Total	\$1,555,645.85	\$1,546,745.56	

The Commission concludes that claimant WILMA SHAPIRO suffered a loss, within the meaning of Title V of the Act, in the amount of \$1,555,645.85 and claimant CHARLES SHAPIRO, \$1,546,745.56.

The Commission affirms its holding that interest shall be included in Certifications of Loss and it shall be included as follows:

	<u>FROM</u>	<u>ON</u>
WILMA SHAPIRO	August 6, 1960	\$ 9,200.29
	October 13, 1960	1,415,548.66
	October 14, 1960	<u>130,896.90</u>
		\$1,555,645.85

	<u>FROM</u>	<u>ON</u>
CHARLES SHAPIRO	October 13, 1960	\$1,415,548.66
	October 14, 1960	<u>131,196.90</u>
		\$1,576,745.56

The Certifications of Loss in the Proposed Decision are set aside and the Certifications of Loss, as restated below, will be entered and the remainder of the Proposed Decision, as amended herein, is affirmed.

CERTIFICATIONS OF LOSS


The Commission certifies that WILMA SHAPIRO suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Million Five Hundred Fifty-five Thousand Six Hundred Forty-five Dollars and Eighty-five Cents (\$1,555,645.85) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

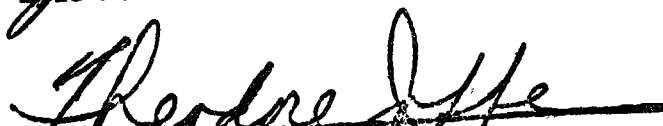
CU-1420
CU-1421

The Commission certifies that CHARLES SHAPIRO suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Million Five Hundred Forty-six Thousand Seven Hundred Forty-five Dollars and Fifty-six Cents (\$1,546,745.56) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

OCT 20 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

CU-1420
CU-1421

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILMA SHAPIRO
CHARLES SHAPIRO

Claim No. CU- 1420
Claim No. CU- 1421

Decision No. CU 6806

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Shapiro, Fried, Weil & Scheer
By Herbert S. Shapiro, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, were presented individually by WILMA SHAPIRO and CHARLES SHAPIRO, in the respective amounts of \$2,327,800.00 and \$2,089,275.00, based upon asserted ownership and loss of realty and personalty, interests in Cuban enterprises and insurance policy proceeds. WILMA SHAPIRO has been a national of the United States since birth and CHARLES SHAPIRO, since his naturalization on June 2, 1914.

Under the Community Property Law of Cuba, claimants as husband and wife, owned equal interests in certain property hereinafter discussed.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any

rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

Claimant WILMA SHAPIRO asserts the following losses:

	<u>Asserted Value</u>
Factory building, Guanabacoa	\$ 150,000.00
Residence and furnishings, La Coronela, Havana	240,000.00
Apartment building (1/4), Miramar	62,500.00
Automobile	2,800.00
Securities:	
(a) Cuban Telephone & Telegraph Co. (50 shares)	5,000.00
(b) Tiendas Los Precios Fijos, S.A. (37.5%)	1,312,500.00
(c) Ellis Hosiery Mills of Cuba, S.A. (37.5%)	187,500.00
(d) Parcelacion Wilcha, S.A. (37.5%)	112,500.00
(e) Mirabel, S.A. (18.75%)	112,500.00
(f) Urbanizadora Las Palmas, S.A. (18.75%)	75,000.00
(g) Las Culebrines, S.A. (18.75%)	37,500.00
(h) Urbanizadora Ariguanevo, S.A. (18.75%)	15,000.00
(i) Inmobiliaria La Lisa, S.A. (37.5%)	11,250.00
(j) Taller de Confecciones (37.5%)	3,750.00
Total	<u>\$2,327,800.00</u>

CU- 1420

CU- 1421

Claimant CHARLES SHAPIRO asserts the following losses:

	<u>Asserted Value</u>
Apartment building, Havana	\$ 200,000.00
Automobile	3,000.00
Securities:	
(a) Tiendas Los Precios Fijos, S.A. (37.5%)	1,312,500.00
(b) Ellis Hosiery Mills of Cuba, S.A. (37.5%)	187,500.00
(c) Parcelacion Wilcha, S.A. (37.5%)	112,500.00
(d) Mirabel, S.A. (18.75%)	112,500.00
(e) Urbanizadora Las Palmas, S.A. (18.75%)	75,000.00
(f) Las Culebrines, S.A. (18.75%)	37,500.00
(g) Urbanizadora Ariguanevo, S.A. (18.75%)	15,000.00
(h) Inmobiliaria La Lisa, S.A. (37.5%)	11,250.00
(i) Taller de Confecciones (37.5%)	3,750.00
Insurance, cash surrender value (4 policies)	<u>18,775.00</u>
Total	\$2,089,275.00

Real and Personal Property

Factory: Based on the evidence of record the Commission finds that claimants were the joint owners of improved real property at Pepe Antonio 508, Guanabacoa, Cuba. The property is described as 15,000 square meters of land improved with one building. The building was used as a factory by the Ellis Hosiery Mills, a Cuban corporation more fully described below. In our decision entitled the Claim of Harold Tanenbaum and Dorothea Tanenbaum (Claim No. CU-1422), the Commission found that the properties of the Ellis Company were taken by the Government of Cuba on October 13, 1960.

It is stated that the property was acquired in 1953 and in 1957 and that numerous improvements and renovations were made over the years. The asserted value was \$150,000.00. The Commission finds that the evidence of record fails to establish an adequate description of this property; the existence of improvements and renovations and the asserted value. Accordingly, the Commission is constrained to and does deny this part of the claims.

Residence and furnishings: The Commission finds that claimants were joint owners of improved real property and certain personal property therein at La Coronela, Gran Boulevard Avenue, Havana, Cuba and that the real property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law, and further, that the personal properties were taken at the same time.

The building is described as a four-bedroom house with servant quarters, terrace and gardens, and was used as the family residence. In the absence of specific evidence of value the Commission has considered the value of comparable realty in La Coronela. It finds that at the time of loss the property had a value of \$75,000.00 and that each claimant suffered a loss in the amount of \$37,500.00.

With respect to the personalty in the property, claimant WILMA SHAPIRO has submitted an affidavit listing furniture and fixtures with values totaling \$62,180.00. It appears from the record that the personalty had an average age of 5 years at the time of loss. The Commission has determined that apart from antiques not subject to depreciation, furniture and appliances must be depreciated at a rate of 5 per cent per annum; and furnishings including drapes, lamps, clothing, must be depreciated at 10 per cent per year. Accordingly, the Commission finds that the personalty at La Coronela, owned equally by claimants, had a value of \$36,293.80 on the date of loss, and that each claimant thereby suffered a loss of \$18,146.90 within the meaning of Title V of the Act.

Apartment Building, Miramar:

On the basis of the record the Commission finds that each claimant was the owner of a 1/8 interest in improved real property at Calle 40A, Miramar, Havana. In the Claim of Carol Betty Siegler, Claim No. CU-1727, Amended Proposed Decision No. CU-6204, the Commission found that this property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law and that at the time of loss the equity in the property had a value of \$190,000.00. Accordingly, the Commission concludes that each claimant suffered a loss in the amount of \$23,750.00 for their 1/8 interest therein.

Autos: Further, the Commission finds that claimant WILMA SHAPIRO was the owner of a 1955 Oldsmobile 98 and claimant CHARLES SHAPIRO, the owner of a 1957 Oldsmobile 88. Both automobiles were also taken by the Government of Cuba on October 14, 1960. At the time of loss the autos had a respective value of \$1,500.00 and \$1,800.00.

Apartment Building, Havana:

The Commission finds that claimants were joint owners of apartment buildings at Malecon and San Lazaro Streets, Havana which were also taken by the Government of Cuba on October 14, 1960.

The record indicates that the property was purchased in 1954 for \$80,000.00 and it is stated that improvements in the amount of \$30,000.00 were subsequently made. Claimants assert that in 1960 the property had a value of \$200,000.00. Other evidence includes two 1960 insurance policies reflecting a total insured value of the buildings at \$74,000.00. The Commission has also considered the value of comparable property and finds that at the time of loss the property including land and two buildings had a value of \$100,000.00. The Commission concludes that each claimant suffered a loss in the amount of \$50,000.00.

Securities

(a) Cuban Telephone Company

Claimant, WILMA SHAPIRO who owned a stock interest in the Cuban Telephone Company, also asserts a claim under Title V against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of International Telephone and Telegraph Corporation (Claim No. CU-2615 which we incorporate herein by reference), we held that the properties of the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of common stock of \$184.0057.

On the basis of evidence in the record in the instant case, the Commission finds that claimant WILMA SHAPIRO comes within the terms of the ITT decision; and that she had been the owner of 50 shares of stock in the Cuban Telephone Company since prior to August 6, 1960; and that she suffered a loss in the amount of \$9,200.29 within the meaning of Title V of the Act, in this respect.

- (b) Tiendas Los Precios Fijos, S.A.
- (c) Ellis Hosiery Mills of Cuba, S.A.

On the basis of evidence of record the Commission finds that each claimant is and since prior to October 13, 1960, has been the owner of 37.5% of the outstanding capital stock of Tiendas Los Precios Fijos, S.A., herein- after referred to as Tiendas, and of the outstanding capital stock of Ellis Hosiery Mills of Cuba, S.A., hereinafter referred to as Ellis.

In our decision entitled the Claim of Harold Tanenbaum and Dorothea Tanenbaum, (Claim No. CU-1422), we held that the properties of Tiendas and Ellis were taken by the Government of Cuba on October 13, 1960 and that at the time of loss the net worth of Tiendas and Ellis was \$2,452,377.01 and \$294,164.88, respectively. Accordingly the Commission concludes that the 37.5% stock interest of each claimant in Tiendas and Ellis had a respective value of \$919,641.36 and \$110,311.83.

Parcelacion Wilcha, S.A.
Mirabel, S.A.
Urbanizadora Las Palmas, S.A.
Las Culebrines, S.A.
Urbanizadora Ariguanevo, S.A.
Inmobiliaria La Lisa, S.A.
Taller de Confecciones

In reference to all of the above properties, some evidence has been submitted which reflects that all of the listed entities were corporations incorporated under the laws of Cuba; the percentage of ownership held by claimants of the outstanding shares and the nationalization of the firms by the Government of Cuba.

Persuasive evidence of record in support of the asserted values of the corporations has not been submitted. The total assets of each corporation are approximated but there is no evidence of value independent of the assertions, such as balance sheets; profit and loss statements; schedules; ledger or business records, and liabilities of a particular or general nature are not listed.

From the foregoing it is obvious that the value of these Cuban corporations cannot be readily determined. By Commission letter of January 5, 1971

counsel was advised of this matter and was advised to submit documentation in support of the asserted value. No further evidence of value has been submitted.

The Commission finds that the burden of proof has not been met. Accordingly, these parts of the claim are denied.

Life Insurance

Part of this claim, in the amount of \$18,775.00, is based upon the asserted cash surrender value of four life insurance policies issued on claimant CHARLES SHAPIRO's life by the United States Life Insurance Company and Imperial Life Assurance Company of Canada.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

The record does not establish that the Government of Cuba took any proceeds of the subject policies. Accordingly, this part of the claim is denied. The Commission need not consider other elements of this part of the claim.

Recapitulation

Claimants' losses are summarized as follows:

WILMA SHAPIRO

<u>Item</u>	<u>Amount</u>	<u>Date of Loss</u>
La Coronela, Havana (realty and personalty)	\$ 55,646.90	October 14, 1960
Calle 40A, Miramar	23,750.00	October 14, 1960
Auto	1,500.00	October 14, 1960
Apartment Buildings, Havana	50,000.00	October 14, 1960
Cuban Telephone Company	9,200.29	August 6, 1960
Tiendas	919,641.36	October 13, 1960
Ellis	110,311.83	October 13, 1960
	<u>\$1,170,050.38</u>	

CHARLES SHAPIRO

<u>Item</u>	<u>Amount</u>	<u>Date of Loss</u>
La Coronela, Havana	\$ 55,646.90	October 14, 1960
Calle 40A, Miramar	23,750.00	October 14, 1960
Auto	1,800.00	October 14, 1960
Apartment Buildings, Havana	50,000.00	October 14, 1960
Tiendas	919,641.36	October 13, 1960
Ellis	<u>110,311.83</u>	October 13, 1960
	\$1,161,150.09	

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0466), and in the instant case it is so ordered, as follows:

WILMA SHAPIRO	<u>From</u>	<u>On</u>
	August 6, 1960	\$ 9,200.29
	October 13, 1960	1,029,953.19
	October 14, 1960	<u>130,896.90</u>
		\$1,170,050.38
CHARLES SHAPIRO	October 13, 1960	\$1,029,953.19
	October 14, 1960	<u>131,196.90</u>
		\$1,161,150.09

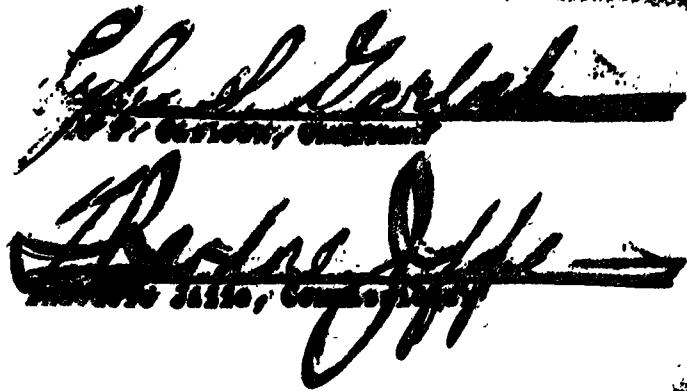
CERTIFICATIONS OF LOSS

The Commission certifies that WILMA SHAPIRO suffered a loss as a result of actions of the Government of Cuba within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Million One Hundred Seventy Thousand Fifty Dollars and Thirty-Eight Cents (\$1,170,050.38) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that CHARLES SHAPIRO suffered a loss as a result of actions of the Government of Cuba within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Million One Hundred Sixty-One Thousand One Hundred Fifty Dollars and Nine Cents (\$1,161,150.09) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

SEP 1 1971



Robert G. Carleton
Robert J. Jaffe

NOTICE TO TREASURY DEPARTMENT: Claimant WILMA SHAPIRO may be the subject of another certification of loss in CU-6036 involving asserted losses not covered under this Proposed Decision.

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba,

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

CU-1420
CU-1421